

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 99-2550

Dianne Foote,

Plaintiff - Appellant,

v.

Kenneth S. Apfel, Commissioner of
Social Security,

Defendant - Appellee.

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* Appeal from the United States
* District Court for the
* Western District of Missouri.
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* **[UNPUBLISHED]**
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Submitted: February 17, 2000

Filed: May 2, 2000

Before RICHARD S. ARNOLD, LOKEN, and HANSEN, Circuit Judges.

PER CURIAM.

Dianne Foote applied for Social Security disability and supplemental income benefits, alleging that she is disabled from fibromyalgia -- severe and chronic muscle pain -- that developed following an auto accident in November 1994. After her application was denied initially and on reconsideration, Ms. Foote was granted a hearing before an administrative law judge, who received medical exhibits and heard testimony by Ms. Foote, her husband, and a vocational expert. Based upon a hypothetical question the ALJ derived from Medical Source Statements by a treating

physician and a consulting psychologist, the vocational expert opined that Ms. Foote could return to her past relevant work as a Wal-Mart cashier or a mail sorter. Applying this court's decision in Polaski v. Heckler, 739 F.2d 1320 (8th Cir. 1984), the ALJ rejected Ms. Foote's testimony that she suffers from constant disabling pain and found that she has the residual functional capacity to return to her past relevant work as cashier and mail sorter. Accordingly, the ALJ decided that Ms. Foote is not entitled to disability insurance benefits and is not eligible for supplemental security income. The Commissioner's Appeals Council denied Ms. Foote's request for further administrative review, and she commenced this action seeking judicial review of the Commissioner's adverse final decision.

The district court¹ granted summary judgment for the Commissioner, concluding in a thorough opinion that substantial evidence in the record as a whole supports the decision that Ms. Foote has the residual functional capacity to perform her past relevant work. Ms. Foote appeals to this court, arguing that the ALJ presented to the vocational expert a vague definition of her residual functional capacity that improperly over-emphasized the adverse objective medical evidence and disregarded her testimony of disabling pain. After careful review of the administrative record as a whole, we agree that substantial evidence supports the Commissioner's decision and affirm for the reasons stated in the district court's Order of April 27, 1999. See 8th Cir. Rule 47B.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.

¹The HONORABLE ORTRIE D. SMITH, United States District Judge for the Western District of Missouri.